

Lincoln City - Lancaster County

PLANNING COMMISSION AGENDA

PLANNING COMMISSION

Tracy Corr: Chair
Tom Beckius: Vice-Chair
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PLANNING STAFF

David R. Cary: Director
Geri Rorabaugh: Administrative Officer
Rhonda Haas: Office Specialist

May 27, 2020

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, May 27, 2020, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

****PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of “FINAL ACTION”. Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

***** In order to limit the number of people gathering at any one time and our effort to adhere to required “social distancing” protocols, we are staggering the times of various hearings over several hours. These times are identified in () next to each agenda item. We are encouraging attendees to arrive no more than 15 minutes before their scheduled hearing. An agenda item will not begin before the time posted. *****

AGENDA

WEDNESDAY, MAY 27, 2020

Approval of minutes of the regular meeting held May 13, 2020.

**1. CONSENT AGENDA:
(Public Hearing and Administrative Action):**

SPECIAL PERMIT:

- 1.1 SPECIAL PERMIT 20014, to allow for soil excavation, on property generally located at NW 40th Street and Highway 34. *****FINAL ACTION *****

Page **Staff recommendation: Conditional Approval**

01 **Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov**

USE PERMIT:

- 1.2 USE PERMIT 140G, to remove the trip/land use table, and to adjust the perimeter setback at the northwest corner of the shopping center, on property generally located at South 84th Street and Highway 2.

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Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

2. **REQUESTS FOR DEFERRAL:**

COMPREHENSIVE PLAN CONFORMANCE:

2.1 COMPREHENSIVE PLAN CONFORMANCE 2007, to review as to conformance with the 2040 Lincoln Lancaster County Comprehensive Plan, a proposed amendment to the Antelope Valley Redevelopment Plan, that adds the "Gorilla Flats Redevelopment Project", on property generally located at 2226 R Street.
Staff recommendation: In Conformance with the Comprehensive Plan
Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

3. **ITEMS REMOVED FROM CONSENT AGENDA:**

4. **PUBLIC HEARING AND ADMINISTRATIVE ACTION:**

(1:00 P.M. PUBLIC HEARING ITEMS: **)**

CHANGE OF ZONE:

4.1 CHANGE OF ZONE 2014, from AG (Agricultural District) to AGR (Agricultural Residential District), on property generally located at 13350 North 84th Street.
Staff recommendation: Denial
Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

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**FOR ANYONE WISHING TO SPEAK ON AN ITEM
NOT ON THE AGENDA, THIS HAS BEEN SUSPENDED UNTIL FURTHER NOTICE**

Adjournment

PENDING LIST: *None.*

Planning Department Staff Contacts:

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Kellee Van Bruggen, <i>Transportation Planner</i>	402-441-6363..	kvanbruggen@lincoln.ne.gov
Allan Zafft, <i>Transportation Planner</i>	402-441-6369..	azafft@lincoln.ne.gov

* * * * *

**The Planning Commission meeting
which is broadcast live at 1:00 p.m. every other Wednesday
will be rebroadcast on Wednesdays at 7:00 p.m., Thursdays at 12:00 a.m. and Sundays
at 12:30 p.m. on 5 City TV, Cable Channel 5.**

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**The Planning Commission agenda may be accessed on the Internet at
<http://www.lincoln.ne.gov/city/plan/pcagenda/index.htm>**

ACCOMMODATION NOTICE

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Director of Equity and Diversity, Lincoln Commission on Human Rights, at 402 441-7624 as soon as possible before the scheduled meeting date in order to make your request.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

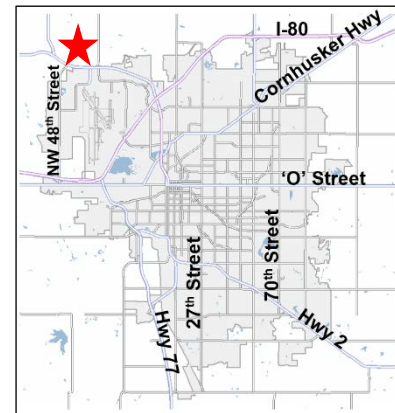
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Special Permit #20014	FINAL ACTION? Yes	DEVELOPER/OWNER Larry Coffey
PLANNING COMMISSION HEARING DATE May 27, 2020	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION NW 40 th St. and Highway 34

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request per Section 27.63.160 of Lincoln Municipal Code for Excavation. The property is currently in the AG Agricultural District. The boundary of the special permit is approximately 214 acres and the area of excavation in the first phase is 20 acres.



JUSTIFICATION FOR RECOMMENDATION

This application with the conditions of approval meet the requirements for an Excavation special permit. There are few houses nearby. There is no significant impact on adjacent properties with proposed conditions.

APPLICATION CONTACT

Nate Burnett, REGA Engineering Group
402-484-7342, nate@regaeng.com

STAFF CONTACT

Tom Cajka, (402) 441-5662or
tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The special permit for excavation of soil is in conformance with the 2040 Comprehensive Plan. It does not negatively impact future growth or agricultural use as only 20 acres is used at a time. It helps support road and development projects that support growth of the community.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 12.3 - This site is shown as future Agriculture on the 2040 Lincoln Area Future Land Use Plan.

P. 12.9 - This site is in Tier III of the Growth Tiers. Tier III provides an approximately 131 square mile area for Lincoln's longer term growth potential—beyond 50 years. Little active planning of utilities is likely to occur in the near term in Tier III.

ANALYSIS

1. This request is for soil excavation on a 214 acre site under the provisions of Chapter 27.63.160 Excavation. Approximately 1.5 million cubic yards of soil is planned to be excavated. To excavate this amount of soil will most

likely take many years to complete. The special permit is for three years. After three years a new special permit would be required. The operations impact on the street system, adjacent properties and the community would be reviewed after 3 years before a new special permit would be approved.

2. The site plan shows an access drive off of NW 40th Street, approximately 700 feet from Highway 34. NW 40th Street is a county gravel road.
3. There are 2 private wells within 1,000 feet of the operation. **A water report was not submitted.** Rather than submit a water report, the applicant will not do any excavation within a 1,000 feet from any private well. A water report is required if there is to be any excavation within 1,000 feet of a private well or 2,000 feet of a community well or designated to result in an excavated area that does not drain to a lower area. They do not meet any of these criteria, therefore a water report is not required.
4. There are two houses near the site; one to the north and the other on the east side of NW 40th St. The house to the north is approximately 1,000 feet from the north boundary of the special permit.
5. Operating hours shall be limited to daylight hours, Monday through Saturday.
6. The County Engineer requires a Road Maintenance Agreement for adjacent county roads. The County Engineer also requires that warning signs be posted along the adjacent roads warning traffic of entering/exiting trucks.
7. The access drives into the site must be approved by the Lancaster County Engineering Department.
8. Lincoln Transportation and Utilities Watershed Management notes that there are wetlands and a minimum flood corridor within the special permit boundary. No excavating may take place within these areas.
9. During the soil mining process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but are not limited to, application of water or other dust suppression chemicals.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING:	AG Agriculture	Farm ground
	H-3 Highway Commercial	Farm ground

SURROUNDING LAND USE & ZONING

North:	AG Agriculture	Farm ground and two dwellings
South:	AG Agriculture	Farm ground and one dwelling
	H-3 Highway Commercial	Outside and inside storage
East:	AG Agriculture	Farm ground and one dwelling
West:	AG Agriculture	Farm ground

APPROXIMATE LAND AREA: 214 acres, more or less.

LEGAL DESCRIPTION: Lot 40 Irregular Tract located in the SE 1/4 of Section 30, Township 11 North, Range 6 East and Lot 65, that portion of Lot 67 west of NW 40th Street right-of-way, all Irregular Tracts located in the NE ¼ of Section 31, Township 11 North, Range 6 East, Lancaster County, NE.

Prepared by

Tom Cajka, Planner

Date: May 18, 2020

Applicant: Nate Burnett
REGA Engineering Group
601 Old Cheney Rd. Suite A
Lincoln, NE 68512
402-484-7342
nate@regaeng.com

Contact: Same as applicant

Owner: Larry Coffey
PO Box 81463
Lincoln, NE 68501

F:\DevReview\SP\20000\SP20014 Coffee Borrow Pit.tjc.docx

CONDITIONS OF APPROVAL - SPECIAL PERMIT #18034

Per Section 27.63.160 this approval permits soil excavation for a period of three (3) years from the date of approval of this special permit.

Site Specific Conditions:

1. Before initiating excavation operations the permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 3 copies with all required revisions and documents as listed below:
 - 1.1 The special permit does not include Lot 66 IT. Clearly define the boundary of the special permit.
 - 1.2 Correct the legal description.
 - 1.3 Identify the minimum flood corridor and any wetlands. Add a note that no grading shall take place within the minimum flood corridor.
 - 1.4 In the legend add 20 acres next to Grading limits Phase One.
 - 1.5 Not all of Lot 67 is in the special permit. Revise the acreage to reflect that part of Lot 67 in the special permit.
 - 1.6 Note that no excavating shall take place within 1,000 feet of a well.
 - 1.7 Show a dimension from Highway 34 to the entrance drive.
 - 1.8 Identify where topsoil shall be collected and stored.
 - 1.9 Realign any necessary grading contours to direct flow such that it better utilizes the proposed vegetative buffer strip as shown on plans, particularly for drainage flowing into or near the west significant stream.
 - 1.10 The proposed grading may alter the existing drainage area directly southwest of Lot 39. The proposed grading shows a new high point with 1250 feet in elevation. Please modify to help minimize any changes to the existing drainage area in this location.
 - 1.11 Clarify on plans how the proposed grading will tie into the existing contours along the Lot 67 southwestern boundary adjacent to NW 40th Street. Please show how drainage would occur near the existing 24" pipe under the construction entrance.
2. Before receiving building permits provide the following documents to the Planning Department:
 - 2.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
3. Before beginning the excavation operation,
 - 3.1 The Permittee shall have
 - 3.1.1 Received review and permits, in required for the Federal NPDES and 404 Permits.
 - 3.1.2 Post performance bond in the amount of \$112,350.00(\$525.00 per acre) intended to be disturbed to assure compliance with the final reclamation plan, including but not limited to regrading, topsoil conditioning, and re-vegetation. A registered professional engineer must

certify at closure of operations that grading and final reclamation has been completed in accordance with the approved plans before the bond may be released.

- 3.1.3 Upon completion of all terms, conditions and requirements of the special permit that are to be completed before beginning operations, the Permittee shall request the Director of Building and Safety to issue a certificate of operation. Permittee shall not begin operation until it has received said certificate of operation.
- 3.1.4 Applicant shall submit traffic impact information regarding anticipated use of County roads along with anticipated hauling routes to the County Engineer for review.
- 3.1.5 Applicant shall enter into a Road Maintenance Agreement with Lancaster County for adjacent County roads throughout the operation of the permit.
- 3.1.6 A sign shall be posted and maintained at the entrance to the site. The sign shall be:
 - 3.1.6.1 Clearly visible from the adjacent road;
 - 3.1.6.2 At least 32 square feet in area;
 - 3.1.6.3 Lettering shall be at least two inches in heights, black on a white background;
 - 3.1.6.4 The sign shall list:
 - (a) The approved Special Permit Number;
 - (b) The name, contact phone and email address for the land owner;
 - (c) The name, contact phone and email address for the operator/contractor;
 - (d) The Building and Safety Department contact number.
- 3.2 After beginning the excavation operations, the Permittee shall have
 - 3.2.1 Erosion controls, including retention and sediment basins shall be provided during excavation in conformance with state and federal standards and City land erosion and sediment control regulations to prevent a change in the character of runoff onto adjacent land.
 - 3.2.2 No more than twenty (20) acres of the site shall be open for operations at any one time. The surface shall be maintained in such a manner that surface waters do not collect and pond, unless specifically approved by the City. Underground drainage may be supplied if it connects to an existing drainage facility and is satisfactory to the City.
 - 3.2.3 Topsoil shall be collected and stored for redistribution on the site at the termination of the operation or termination of each phase.
 - 3.2.4 Excavation shall be conducted in such a way as not to constitute a hazard to any person, not to the adjoining properties. Dust shall be controlled on-site to meet Lincoln-Lancaster County Air Pollution Control program Regulations. In addition, the Health Department may require dust control on unpaved perimeter roads.
 - 3.3.5 Safety screening may be required at the outer boundary of the site. Visual screening through setbacks, berming and other techniques may also be required where said boundary is adjacent to residential or park land, school property, or at major entryways/corridors into a city, town or village.
 - 3.3.6 Operating hours shall be limited to daylight hours, Monday through Saturday.

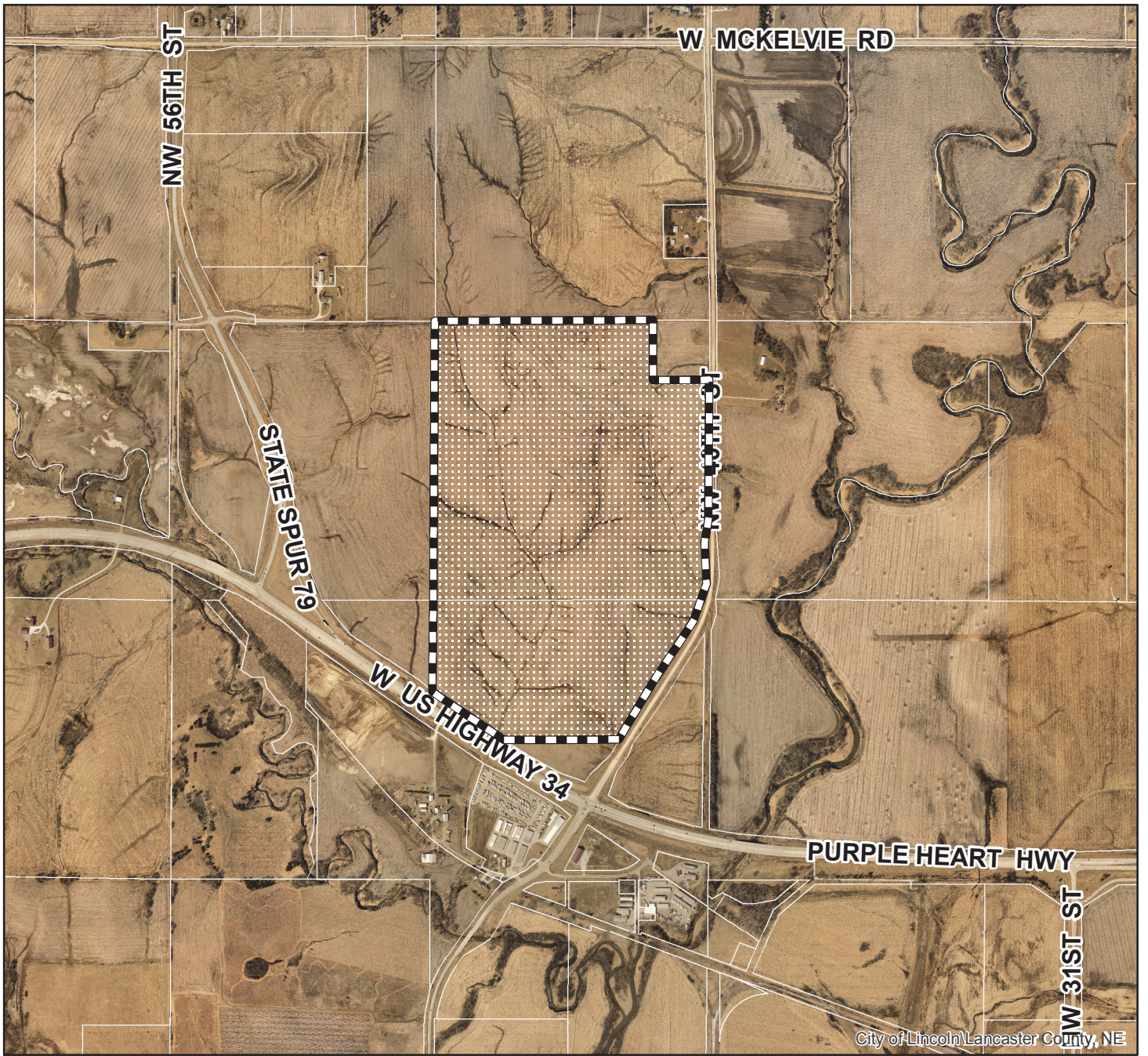
- 3.3.7 The applicant will take appropriate measures, such as street sweeping or “rumble bars” as specified by the County or City Engineer to minimize mud or dirt tracking onto streets and roads on a continuing (daily) basis during operation.
- 3.3.8 Operations shall commence within one year from the date the special permit is approved or the special permit will automatically terminate and be considered null and void. All existing certificates of operation shall automatically terminate on the same date.
- 3.3.9 Within nine months after the completion of excavation on any portion of the site, all cuts shall be returned to a slope of less than three to one, the topography and soils shall be restored and stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.
- 3.3.10 A special permit may be approved for a maximum of three-years from the date the special permit is issued.
- 3.3.11 Permittee shall prepare and submit an annual report to the Director of Building and Safety addressing the status and extent of operations and each condition of the special permit. Failure to submit the annual report shall constitute just cause for the City Council to revoke the special permit.
- 3.3.12 Permittee shall be subject to an annual site inspection by the Director of Building and Safety. The cost of such inspection shall be paid for by the applicant. Cost shall be based upon the Department of Building and Safety’s hourly rate in effect on the date of the application. Building and Safety shall:
 - 3.3.12.1 Inspect the site to determine whether terms, special conditions and requirements imposed by the City in the approval of the special permit have been met and complied with; and
 - 3.3.12.2 Review all complaints from public and other departments/agencies and report to the Planning Director.
- 3.3.13 The County or City Engineer may require installation of traffic signs to warn motorists of excavation or stone milling operations and truck traffic.
- 3.3.14 The construction plans shall generally comply with the approved plans.

4. At the conclusion of the operation, the permittee shall provide to the Building & Safety Department a certificate from an engineer stating that the final grading substantially reflects the finish contours shown on the approved site plan and request a release of the performance bond.

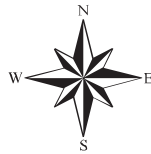
Standard Conditions:

- 5. The following conditions are applicable to all requests:
 - 5.1 Before starting the operation all development and construction shall substantially comply with the approved plans.
 - 5.2 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
 - 5.3 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
 - 5.4 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy

of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.






Special Permit #: SP20014
Coffey Borrow Pit
NW 40th St & Hwy 34

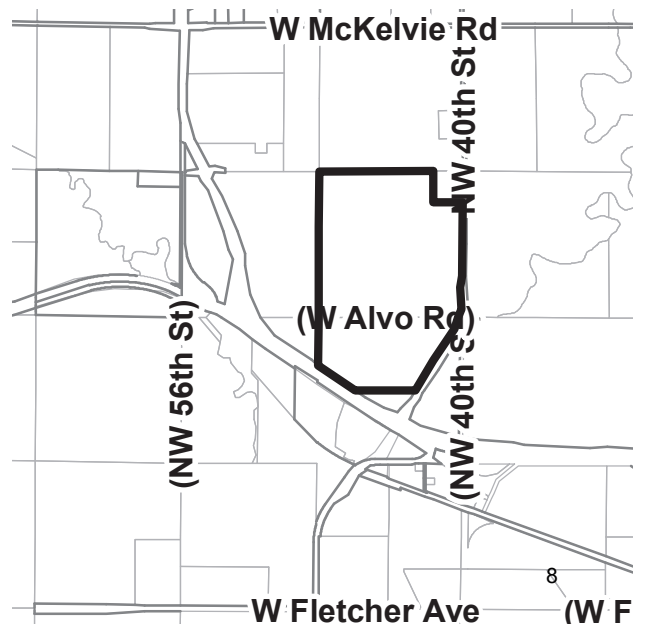


Two Square Miles:
Sec.30 T11N R06E
Sec.31 T11N R06E

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction



May 8, 2020

Mr. David Cary
Planning Director
Tom Cajka, Planner
Lincoln/Lancaster County Planning Department
555 S. 10th Street,
Lincoln, NE 68508

RE: Coffey Borrow Pit
Borrow Area: Located at NW 40th Street and US Highway 34
Application for Soil Mining/Excavation
REGA Project No: 201083

Dear Mr. Cary:

This letter is presented on behalf of Gana Trucking and Excavating and describes the nature of proposed work as part of a Special Use Permit for soil mining/excavation. The 214-acre site, owned by Larry Coffey is located north of U.S. Highway 34 and west of NW 40th Street, as shown on the special permit plans.

The project involves the excavation/mining of soil to be used for fill in and around Lincoln, NE. Cuts on-site are expected to range up to twenty feet, with an estimated volume of excavation of 1.5 million cubic yards. Prior to excavation of the fill material, topsoil will be collected and stored for redistribution at the conclusion of mining activities. After excavation activities are completed for the year, the property will be temporarily seeded until grading commences again.

Currently, the proposed site is used for agricultural purposes. Existing drainage patterns are shown on the plans. The site generally drains south to two swales that run through the properties. A vegetative buffer is planned between soil mining operations and these existing swales. The intention is to grade the site to keep runoff rates to the county ditch at or below existing conditions by keeping a small west to east ridge in a similar location.

The requirements for all applicable permits will be followed. Erosion control measures will be installed to include: diversion dikes along proposed drainage patterns, double layer of silt fence in critical areas, rock construction entrance, temporary seeding as soon as portions of the excavated land have ceased, berms to protect the perimeter of the site from sediment runoff, and any other measures deemed necessary. Dust control will be a priority, with measures including: vegetative ground cover, application of water on haul roads and the

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excavation of the site as needed. All proposed grades will at a maximum be a 3:1 slope and have a minimum of 2% fall for drainage.

There are (2) existing wells located within 1,000 feet of Lot 40; however, we are not proposing any grading within the 1,000-foot radius of the wells.

An original signature of the application will be submitted to planning once received by the owner. If you have any questions regarding this application, please contact me at (402) 484-7342.

Sincerely,

A handwritten signature in black ink that reads "Nathaniel Burnett". The signature is written in a cursive style with a prominent loop at the end of the last name.

Nathaniel Burnett, PE

Cc: Jake Whitefoot

Enclosed: Application Form
Application Fee of \$988.00

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Use Permit #140G	FINAL ACTION? No	DEVELOPER/OWNER Eiger Corp.
PLANNING COMMISSION HEARING DATE May, 27, 2020	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION South 84 th Street and Highway 2

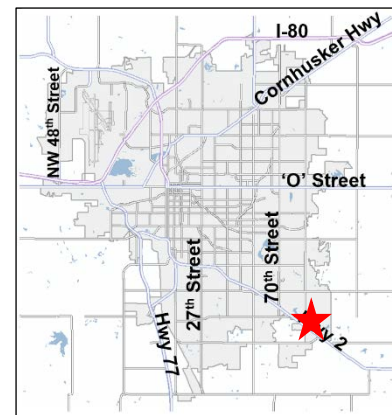
RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request to adjust the perimeter setback at the northwest corner of the development from 100' to 0', and to delete the land use/trip generation table from the site plan.

The setback adjustment is conditional. That is, the request is to adjust the setback to 20' under current conditions, but would be allowed to go to 0' at such time as the adjacent AGR-zoned parcel is rezoned from AGR to commercial zoning.

Deletion of the land use/trip generation table is consistent with the amendment to the associated annexation agreement, as well as the zoning action recently completed for the companion development on the south side of Highway 2 for Use Permit #150 deleting the same table.



JUSTIFICATION FOR RECOMMENDATION

It is due to the current AGR zoning on the adjacent, undeveloped parcel that the required setback is 100' as per the B-5 district. However, it is unlikely will be rezoned and developed for anything other than commercial uses.

The need for the land use/trip generation was eliminated when the annexation agreement which originally required it, was amended by the City Council on March 6, 2020 deleting the cap on trip generation. The annexation agreement applied to the commercial developments on both sides of Highway 2 east of South 84th Street at this location. On March 18, the land use trip generation table was also deleted from the use permit on the south side of Highway 2, UP#150C. This request is consistent with both of those zoning actions.

APPLICATION CONTACT

DaNay Kalkowski, 402-435-6000 or danay@sk-law.com

STAFF CONTACT

Brian Will, 402 441-6362 or bwill@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The requirement for the land use/trip generation table no longer exists. Both of these requests help allow for more efficient use of land, and simplify the development process. Simplifying the implementation of the Zoning Ordinance to encourage development when it is not otherwise detrimental is consistent with the Comprehensive Plan.

WAIVERS

1. Waiver #1. Reduce setback from 100' to 0' (LMC Section 27.72.030(a))

Recommend Approval

ANALYSIS

1. There are two parts to this request. The first is to delete the land use/trip generation table from the site plan for this use permit. The second seeks to adjust the side/rear setback in Block 7 (at the northwest corner of the development) from 100' to 20', or from 100' to 0' if the adjacent land is rezoned from AGR to commercial zoning. A lot layout is then shown consistent with the B-5 zoning district for commercial development in Block 7.
2. The request to delete the land use/trip generation table is the same as the recent approval deleting the same table from thing for the use permit on the other south side of Highway 2, Use Permit #150C. Recall that the land use/trip generation is part of the site plan as a mechanism for tracking maximum vehicle trips to help ensure development did not exceed previously approved levels. It was made a requirement of the original annexation agreement associated with this development dating back to 2001.

The annexation agreement between the Eiger Corp. and the City of Lincoln was amended in March, 2020. The City Council approved the amendment deleting the cap on vehicle trips form the annexation agreement, and so the table was subsequently deleted from UP#150C at the developer's request.

3. Lacking the requirement in the annexation agreement, there is no reason to track vehicle trip generation any longer. As a result the land use/trip generation table no longer serves a purpose and should be deleted from the site plan. The continued existence of the table on the use permit serves as a hindrance to development, and slows applicants down at the time of building permits when it's found that the table needs to be amended to simply accommodate their particular use. Such delays cost the development community time and money, and use City staff time which can be put to better use.
4. The second request, the setback adjustment, is in part the result of the realignment of Pine Lake Road after the development was originally approved. The area in question is located at the northwest corner of the shopping center, shown adjacent to Block 7 on the site plan. Prior to the realignment of Pine Lake Road, this development was adjacent to Pine Lake Road along the extent of its northern boundary. When the street was realigned and jogged to the north, it left a portion of another land owner's lot, as well as that land owner's portion of the vacated right-of-way, on the south side of the realigned Pine Lake Road. This land is still under different ownership than the shopping center, and has never been rezoned and made a part of the center.
5. The tract between the shopping center and Pine Lake Road is designated for commercial land uses in the Future Land Use Plan of the Comprehensive Plan. It is highly unlikely it will be developed with anything other than commercial land uses. Currently zoned AGR however, the side or rear setback for the adjacent B-5 zoning is 100'. This leaves a considerable portion of the B-5 dedicated as open space and not available for commercial development.
6. The setback adjustment request is two-fold. The request is to adjust the setback from 100' to 20' adjacent to the AGR, and at such time as it is rezoned to commercial zoning the setback is automatically adjusted to 0'. Adjusting the setback to 20' under current conditions will provide for a setback consistent among commercial zoning districts. At such time as it is rezoned to commercial zoning, the adjustment to allow a 0' setback among commercial districts is appropriate.
7. If approved, this request deletes the land use/trip generation table from the use permit which is no longer needed, and is consistent with the amendment to the annexation agreement and Use Permit #150C. It allows an adjustment to the side/rear setback in a manner compatible with the future anticipated zoning and land use of the adjacent parcel. Subject to the recommended conditions of approval, this request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Commercial B-5 Planned Regional Business

SURROUNDING LAND USE & ZONING (IN THE AREA OF THE PROPSD SETBACK ADJUSTMENT)

North:	Vacant	AGR
South:	Vacant	B-5

East: Apartments B-5
West: Vacant, Residential AG, AGR

APPLICATION HISTORY:

- Mar 2020 The annexation agreement between Eiger Corp. and the City was amended to delete limits on trip generation.
- Jan 2018 UP#140F was approved reducing the parking requirement for Menards.
- Mar 2015 - UP#140E was approved to expand the area of the use permit by 17.47 acres.
- May 2014 - UP#140D was approved to expand the use permit by 14.6 acres, while reducing it by 6.3 acres for a portion rezoned to H-4.
- Mar 2009 - UP#140C was approved adjusting the required parking from 729 spaces to 650 spaces.
- Apr 2005 - UP#140B was approved expanding the Appian Way use permit by 24 acres for a six-screen movie theater complex.
- Oct 2002 - UP#140A was approved adjusting the required parking for Menards from 877 spaces to 729 spaces.
- Sep 2001 - PP#01006 for Appian Way Regional Center with 28 commercial lots and 8 outlots was approved.
- Nov 2001 - ANN#01006 annexing 245 acres into the City of Lincoln was approved.
- Nov 2001 - CZ#3320 changed the zoning on 98.8 acres east of relocated South 91st Street from AG to R-3.
- Nov 2001 - CZ#3285 changed the zoning on 146.3 acres between South 84th and relocated South 91st Street north of Highway 2 from AG to B-5.
- Nov 2001 - UP#140 for 825,400 square feet of commercial space, with the option to expand to 940,000 square feet provided that the total p.m. peak hour trips does not exceed 2,925 was approved.

APPROXIMATE LAND AREA: 189.23 acres more or less (entire shopping center)

LEGAL DESCRIPTION: See attached legal description.

Prepared by

Brian Will, Planner
May 13, 2020

Applicant/
Owner: Eiger Corp.
16934 Pella Road
Adams, NE 68301
402-432-8975
kelvinkorver@yahoo.com

Contact: DaNay Kalkowski
Seacrest & Kalkowski
1128 Lincoln Mall, Ste 105
Lincoln, NE 68508
402-435-6000
danay@sk-law.com

[BW1]

CONDITIONS OF APPROVAL - USE PERMIT #140G

This approval permits the deletion of the land use/trip generation table, and an adjustment to the setback adjacent to AGR-zoned land in Block 7 from 100' to 20', and from 100' to 0' when the adjacent land is rezoned from AGR to commercial zoning.

Site Specific Conditions:

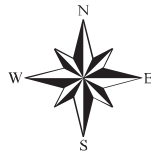
1. The permittee shall cause to be prepared and submitted to the Planning Department three copies of a revised final site plan with all required revisions and documents as listed below before receiving building permits.
 - 1.1 Add a note which states: The side/rear setback for Block 7 adjacent to AGR zoning shall be 20'. In the event the land is rezoned from AGR to commercial zoning the side/rear setback is reduced to 0'.
 - 1.2 Delete the legal description for the change of zone from AG and AGR to B-5 from a prior rezoning which is no longer relevant.
 - 1.3 Add Notes 34 and 35 from the original use permit site plan for UP#140 as noted by Building and Safety.
 - 1.4 Show the private roadway connection from Block 7 across the adjacent tract to Pine Lake Road to the satisfaction of Lincoln Transportation and Utilities and Planning Departments.
 - 1.5 Revise the hydrology study per the review comments from the Watershed Management Division.
 - 1.6 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

Standard Conditions:

2. The following conditions are applicable to all requests:
 - 2.1 Before occupying the areas of expansion all development and construction is to substantially comply with the approved plans.
 - 2.2 All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
 - 2.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 2.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.
 - 2.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.



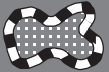


Use Permit #: UP140G
Appian Way Regional Center
S 84th St & Pine Lake Rd

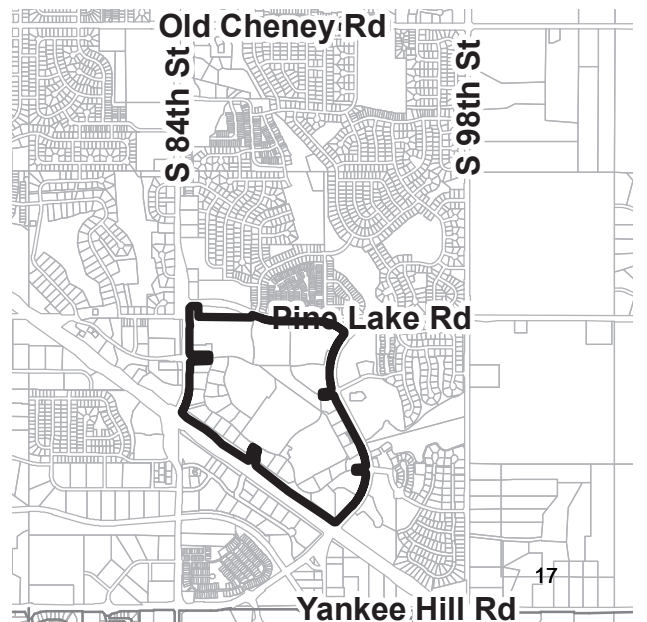


Two Square Miles:
 Sec.14 T09N R07E
 Sec.23 T09N R07E

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction





SEACREST & KALKOWSKI, PC, LLO
KENT@SK-LAW.COM | DANAY@SK-LAW.COM

April 23, 2020

David Cary, Director
Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Amendment to Use Permit No. 140E
Appian Way Regional Center

Dear David:

Our office represents Eiger Corp., developer of the Appian Way Regional Center located north of Highway 2 from S. 84th Street to South 91st Street (“Developer”). Developer is requesting two amendments to the Site Plan for Use Permit No. 140. The first is to remove the land use table as was done under Use Permit No. 150. The table is no longer necessary to track commercial square footage or P.M. Peak Hour Trips for each individual use or for the whole development. Removal of the table will eliminate any disagreements and/or confusion over correct classifications of use and appropriate trip rates and will promote more efficient development by eliminating the need to process administrative amendments every time the square footage or land use of a parcel changes.

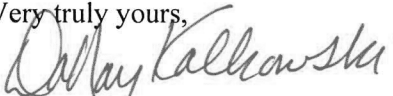
The second request is to reduce the required setback along the north and west side of Block 7 adjacent to the vacated Pine Lake Road from 100 feet to 20 feet, with a further reduction to 0 feet if the adjacent property is zoned for commercial use. The adjacent property is currently zoned AGR, but it is shown in the Comprehensive Plan as Commercial and anticipated to be zoned for commercial use. The Use Permit plans provide connections to the adjacent property that will allow it to be developed as part of the regional shopping center. A reduction in the setback is appropriate at this time and will allow a more efficient development of the property.

Enclosed please find the following:

- a. City of Lincoln Zoning Application; and
- b. Application fees in the amount of \$988.

Tim Gergen from The Clark Enersen Partners will be uploading the Site Plan to project docs once Planning Staff has created the project files and docs. If you have any questions regarding the enclosed or need any additional information, please feel free to contact me or Tim.

Very truly yours,


DANAY KALKOWSKI
For the Firm

Enclosures

LEGAL DESCRIPTION – USE PERMIT APPIAN WAY

LOTS 2 AND 3, BLOCK 1, APPIAN WAY ADDITION; LOT 1, APPIAN WAY 1st ADDITION; LOT 1, APPIAN WAY 2nd ADDITION; LOT 1, APPIAN WAY 3rd ADDITION; LOTS 1, 2 AND 3, APPIAN WAY 4TH ADDITION; LOTS 1 AND 2, APPIAN WAY 5TH ADDITION; LOTS 1 AND 2, APPIAN WAY 6TH ADDITION; LOTS 1, 2, 3, 4 AND 5, OUTLOT "A", APPIAN WAY 7TH ADDITION; LOTS 1 AND 2, APPIAN WAY 9TH ADDITION; LOTS 1 AND 2, OUTLOT "A", APPIAN WAY 11TH ADDITION; LOT 2, APPIAN WAY 12TH ADDITION; LOT 1, APPIAN WAY 13TH ADDITION; LOTS 1, 2, 3 AND 4, OUTLOTS "A", APPIAN WAY 14TH ADDITION; LOTS 1 AND 2, BLOCK 1, LOT 1, BLOCK 2, AND OUTLOTS "B" AND "E", APPIAN WAY 15TH ADDITION; LOT 1 AND OUTLOT "A", APPIAN WAY 17TH ADDITION; LOT 1, APPIAN WAY 19TH ADDITION; AND LOT 1 AND OUTLOT "A", APPIAN WAY 21ST ADDITION ALL LOCATED IN SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH. P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE EASTERLY ON THE NORTH LINE OF SAID NORTHWEST QUARTER ON AN ASSIGNED BEARING OF S 89°30'32"E, A DISTANCE OF 229.80', TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE FOR SOUTH 84th STREET, SAID POINT BEING THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE WEST LINE OF OUTLOT "A", APPIAN WAY 15th ADDITION; THENCE ON SAID WEST LINE FOR THE NEXT THREE (3) COURSES, N 0°52'18"W 56.57'; THENCE N 0°19'32"W 111.49'; THENCE N 44°36'44"E 39.64', TO A POINT ON THE SOUTH LINE OF RELOCATED PINE LAKE ROAD; THENCE EASTERLY ON SAID SOUTH LINE, N 89°37'32"E 129.50'; THENCE SOUTHERLY FOR THE NEXT TWO COURSES ON A LINE OF SAID OUTLOT "A", S 0°11'09"W 148.46'; THENCE S 0°29'28"W 50.00', TO A POINT ON THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE EASTERLY ON SAID NORTH LINE, S 89°30'32"E 965.26'; THENCE N 12°38'36"E 41.43'; THENCE S 72°15'11"E 188.73', TO THE POINT OF CURVATURE OF A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1099.09' AND A CENTRAL ANGLE OF 11°06'40"; THENCE ON SAID CURVE, HAVING A CHORD OF S 77°48'18"E 212.81'; THENCE S 86°25'49"E 118.09'; THENCE S 89°49'12"E 605.71'; THENCE N 88°41'42"E 50.63', TO THE POINT ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 740.00' AND A CENTRAL ANGLE OF 1°56'57"; THENCE ON SAID CURVE, HAVING A CHORD OF N 89°40'12"E 25.17'; THENCE S 0°29'28"W 5.23', TO A POINT ON THE NORTH LINE OF SAID OUTLOT "O", APPIAN WAY ADDITION AND ON THE SOUTH RIGHT OF WAY LINE OF PINE LAKE ROAD, SAID POINT ALSO BEING ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 735.00' AND A CENTRAL ANGLE OF 41°15'52"; THENCE ON SAID CURVE, HAVING A CHORD OF S 68°52'37"E 517.98', TO A POINT ON THE WEST RIGHT OF WAY LINE FOR SOUTH 91st STREET; THENCE ON SAID WEST RIGHT OF WAY LINE FOR THE NEXT THREE (3) COURSES, S 2°19'38"E 35.39', TO THE POINT ON A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1065.00' AND A CENTRAL ANGLE OF 57°34'57"; THENCE ON SAID CURVE, HAVING A CHORD OF S 13°09'07"W 1025.85'; THENCE S 27°23'01"W 36.15', TO A POINT ON THE NORTH RIGHT OF WAY LINE FOR HERITAGE LAKES DRIVE; THENCE ON HERITAGE LAKES DRIVE RIGHT OF WAY LINE FOR THE NEXT SIX (6) COURSES, S 71°04'43"W 57.97', TO THE POINT ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 264.00' AND A CENTRAL ANGLE OF 22°09'07"; THENCE ON SAID CURVE, HAVING A CHORD OF S 82°09'17"W 101.43'; THENCE S 3°13'50"W 72.00', TO THE POINT ON A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 336.00' AND A CENTRAL ANGLE OF 22°09'07"; THENCE ON SAID CURVE, HAVING A CHORD OF N 82°09'17"E 129.10'; THENCE N 71°04'43"E 57.97', TO A POINT ON THE WEST RIGHT OF WAY LINE FOR SOUTH 91ST STREET; THENCE ON SAID WEST RIGHT OF WAY LINE FOR THE NEXT FOUR (4) COURSES, S 65°13'34"E 36.15', TO THE POINT ON A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1065.00' AND A CENTRAL ANGLE OF 5°27'34"; THENCE ON SAID CURVE, HAVING A CHORD OF S 24°56'00"E 101.44'; THENCE S 27°39'47"E 937.76', TO THE POINT ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 935.00' AND A CENTRAL ANGLE OF 22°49'13"; THENCE ON SAID CURVE, HAVING A CHORD OF S 16°15'10"E 369.94'; THENCE S 42°24'34"W 34.43', TO A POINT ON THE NORTH RIGHT OF WAY LINE FOR ANDERMATT DRIVE; THENCE ON THE RIGHT OF WAY LINE FOR ANDERMATT DRIVE FOR THE THREE (3) COURSES, S 88°53'45"W 174.03'; THENCE S

1°06'15"E 72.00'; THENCE N 88°53'45"E 174.03', TO A POINT ON THE WEST RIGHT OF WAY LINE FOR SOUTH 91ST STREET; THENCE ON SAID WEST RIGHT OF WAY LINE FOR THE NEXT FOUR (4) COURSES, S 44°37'04"E 34.43', TO THE POINT ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 935.00' AND A CENTRAL ANGLE OF 41°42'18"; THENCE ON SAID CURVE, HAVING A CHORD OF S 23°29'13"W 665.65'; THENCE S 44°20'22"W 400.02'; THENCE S 85°41'38"W 37.53', TO A POINT ON THE NORTH RIGHT OF WAY LINE FOR NEBRASKA HIGHWAY NO. 2; THENCE ON SAID NORTH RIGHT OF WAY LINE FOR THE NEXT THREE (3) COURSES, N 52°57'07"W 206.15'; THENCE N 56°19'51"W 780.25'; THENCE N 52°26'00"W 758.61', TO A POINT ON THE EAST RIGHT OF WAY LINE FOR SOUTH 87TH STREET; THENCE ON THE RIGHT OF WAY LINE FOR SOUTH 87TH STREET FOR THE NEXT SEVEN (7) COURSES, N 14°44'12"W 39.56', TO THE POINT ON A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 350.00' AND A CENTRAL ANGLE OF 21°57'58"; THENCE ON SAID CURVE, HAVING A CHORD OF N 9°55'33"E 133.36', TO THE POINT ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 250.00' AND A CENTRAL ANGLE OF 30°00'47"; THENCE ON SAID CURVE, HAVING A CHORD OF N 13°56'57"E 129.46', TO THE POINT ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 1550.00' AND A CENTRAL ANGLE OF 4°14'10"; THENCE ON SAID CURVE, HAVING A CHORD OF N 58°39'35"W 114.57', TO THE POINT ON A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 364.50' AND A CENTRAL ANGLE OF 30°45'45"; THENCE ON SAID CURVE, HAVING A CHORD OF S 14°19'26"W 193.36', TO THE POINT ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 235.50' AND A CENTRAL ANGLE OF 14°51'55"; THENCE ON SAID CURVE, HAVING A CHORD OF S 6°22'31"W 60.93'; THENCE S 70°21'51"W 30.30', TO A POINT ON THE NORTH RIGHT OF WAY LINE FOR NEBRASKA HIGHWAY NO. 2; THENCE ON SAID NORTH RIGHT OF WAY LINE FOR THE NEXT SIX (6) COURSES, N 57°09'01"W 556.12'; THENCE N 45°55'04"W 202.24'; THENCE N 53°03'46"W 200.03'; THENCE N 58°00'35"W 400.90'; THENCE N 43°05'38"W 117.22'; THENCE N 10°49'43"W 18.79', TO A POINT ON THE EAST RIGHT OF WAY LINE FOR SOUTH 84TH STREET; THENCE NORTHERLY ON SAID EAST RIGHT OF WAY LINE FOR THE NEXT SEVEN (7) COURSES, N 29°00'57"E 22.22', TO THE POINT ON A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 1020.00' AND A CENTRAL ANGLE OF 29°41'38"; THENCE ON SAID CURVE, HAVING A CHORD OF N 14°10'08"E 522.72'; THENCE N 0°40'41"W 155.34', TO THE POINT ON A CIRCULAR CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 280.00' AND A CENTRAL ANGLE OF 1°35'07"; THENCE ON SAID CURVE, HAVING A CHORD OF N 20°09'19"E 7.75', TO THE POINT ON A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 320.00' AND A CENTRAL ANGLE OF 11°28'25"; THENCE ON SAID CURVE, HAVING A CHORD OF N 5°03'32"E 63.97'; THENCE N 0°40'41"W 151.61'; THENCE N 44°19'19"E 22.42', TO A POINT ON THE SOUTH RIGHT OF WAY LINE FOR EIGER DRIVE; THENCE ON THE RIGHT OF WAY LINE FOR EIGER DRIVE FOR THE NEXT THREE (3) COURSES, N 89°19'19"E 330.59'; THENCE N 0°22'12"W 120.00'; THENCE S 89°19'19"W 338.88', TO A POINT ON THE EAST RIGHT OF WAY LINE FOR SOUTH 84TH STREET; THENCE ON THE EAST RIGHT OF WAY LINE OF SOUTH 84th STREET AND THE WEST LINE OF OUTLOT "A", APPIAN WAY 15th ADDITION FOR THE NEXT SIX (6) COURSES, N 29°44'08"W 39.33'; THENCE N 0°13'54"W 371.54', TO A POINT OF CURVATURE OF A CIRCULAR CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 11°28'42", A RADIUS OF 280.00' AND AN ARC LENGTH OF 56.09'; THENCE ON SAID CURVE, HAVING A CHORD OF N 5°30'27"E 56.00', TO A POINT OF REVERSE CURVATURE FOR A CIRCULAR CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 11°28'42", A RADIUS OF 320.00' AND AN ARC LENGTH OF 64.11'; THENCE ON SAID CURVE, HAVING A CHORD OF N 5°30'27"E 64.00', TO THE POINT OF TANGENCY; THENCE ON SAID TANGENT, N 0°13'54"W 109.04'; THENCE N 0°52'18"W 50.89', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 7,971,201.95 SQUARE FEET OR 182.99 ACRES, MORE OR LESS.

EXCLUDING OUTLOT 'C', APPIAN WAY 14TH ADDITION CONTAINS A CALCULATED AREA OF 271,828 SQUARE FEET OR 6.24 ACRES, MORE OR LESS.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

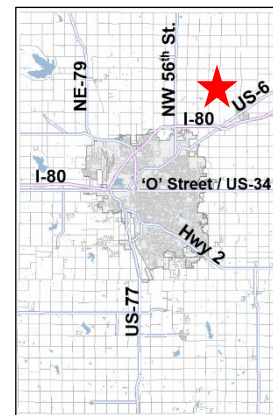
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Change of Zone #20014	FINAL ACTION? No	DEVELOPER/OWNER Raymond and Janet Stander
PLANNING COMMISSION HEARING DATE May 27, 2020	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 13350 N. 84 th St.

RECOMMENDATION: DENIAL

BRIEF SUMMARY OF REQUEST

This is a request for a change of zone from AG-Agricultural to AGR-Agricultural Residential on 7.59 acres. The applicant is requesting the change of zone to allow the 7.59 acre parcel to be subdivided into two lots.



JUSTIFICATION FOR RECOMMENDATION

This request is not in conformance with the Comprehensive Plan. The area is shown as agricultural in the 2040 Lancaster County Future Land Use Plan. Approval of this change of zone to AGR would likely lead to other AGR requests on other similar lots throughout the county. Additional acreage lots throughout the county would lead to additional burden on emergency services as well as road and bridge maintenance. There are also concerns about the quantity of groundwater in the county.

APPLICATION CONTACT

Raymond Stander, 402-465-4449,
2.green@charter.net

STAFF CONTACT

Tom Cajka, (402) 441-5662 or
tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

This change of zone request is not compatible with the comprehensive plan. This area is shown to remain agriculture in the Future Land Use Plan and not for acreage lots. This site does not meet the criteria for AGR zoning has outlined in the Comprehensive Plan. It is not on a paved road, the predominant land use in the area is agriculture and the only acreage lots are approximately one-half mile to the south.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 12.3 - This site is shown as future Agricultural on the 2040 Lincoln Area Future Land Use Plan.

P. 12.4 - Agricultural- Land principally in use for agricultural production. Agricultural land may be in transition to more diversified agribusiness ventures such as growing and marketing of products on site.

P. 1.2 - Lincoln and Lancaster County: One Community Vision Statements:

- An important relationship exists between the urban, rural, and natural landscapes. Urban and rural development

- maximize the use of land in order to preserve agriculture and natural resources.
- Policies of managing urban growth, maintaining an "edge" between urban and rural land uses, and preserving prime agricultural land form a distinctive and attractive built environment for Lincoln and Lancaster County.

P. 2.7 - Preserve areas throughout the county for agricultural production by designating areas for rural residential development - thus limiting potential conflicts between farms and acreages.

P. 7.2- Encourage acreages to develop in appropriate areas and preserve farmland.

P. 7.12 - LPlan 2040 supports the preservation of land in the bulk of the County for agricultural and natural resource purposes. However, it recognizes that some parts of the County are in transition from predominantly agricultural uses to a mix that includes more residential uses. Balancing the demand for rural living and the practical challenges of integrating acreages with traditional land uses will continue.

P. 7.12 - All proposals for acreages, whether designated on the future land use map for low density residential or not, should be evaluated based on factors such as paved roads, adequate water quality and quantity, soil conditions for on-site wastewater management, availability of emergency services, agricultural productivity, land parcelization, the pattern of existing acreages, and plans for future urban development.

P. 7.12 - Areas not designated for acreages should remain agriculturally zoned and retain the current overall density of 32 dwelling units per square mile (1 dwelling unit per 20 acres). However, considerations should be given to new ways that smaller lots within the County jurisdiction can be subdivided and sold, while still maintaining that overall density and maintaining good access management along the County's section line roads.

P. 7.13 - Many families are not well informed of all the implications of rural living before they make that lifestyle choice. This includes an understanding of the state's Right to Farm law, which protects farmers from nuisance claims when conducting normal agricultural practices, and an understanding of the difference between urban and rural public services.

P. 8.5- Each rural fire district has unique challenges, including response times and water availability.

P. 8.5 - A growing population in the small towns, villages, and rural areas, as well as increased traffic, will continue to create demands for fire and emergency services.

ANALYSIS

1. This application is for a change of zone from AG-Agricultural to AGR- Agricultural Residential on 7.59 acres located at N. 84th St. and Mill Rd. The change of zone is requested so that the lot can be subdivided into two lots. The minimum lot size in AGR is 3 acres.
2. This lot was created prior to 1979. At that time the minimum lot size for AG zoning was one acre. The minimum lot size in the AG zoning district changed to 20 acres with the 1979 zoning update. There are 2 exceptions to the 20 acre rule. One is commonly referred to as a farmstead split. This requires that a house be at least 5 years old, been associated with a farm and the lot be at least 21 acres in size. The 21 acre lot is allowed to be divided into a 1 acre lot and a 20 acre lot. The existing house must be on the 1 acre lot and a new house must be on 20 acres. The second option is AG Preservation which requires a minimum of 20 acres. This can be vacant land. The 20 acres can be divided into a 3 to 5 acre lot for a house and 75% of the 20 acres must remain as some type of open space. The density is still one dwelling per 20 acres. These are 2 options to create small lots without having to rezone to AGR. The applicant's lot does not meet the criteria for either of these options.
3. An alternative to a change of zone would be for the applicant to acquire an additional 33 acres. With 40 acres, the applicant could do an AG Preservation final plat that would create 2 lots and a 30 acre outlot.
4. The property is shown to remain agricultural in the 2040 Lancaster County Future Land Use Plan. All of the land surrounding this parcel is shown to remain agricultural in the Future Land Use Plan.

5. The Comprehensive Plan on page 7.12 details factors that should be evaluated for a change of zone for acreage developments. The factors are:
 - a. **Paved Roads**—N. 84th Street and Mill Road are both county gravel roads.
 - b. **Adequate water quality and quantity**— Each lot would need a private well. No ground water information was submitted with this application. Lincoln-Lancaster County Health Department notes that there is adequate water for one additional well.
 - c. **Soil conditions** - This lot is not shown as prime farmland.
 - d. **Emergency Services**—The Lancaster County Sheriff’s office and Waverly Rural Fire would provide emergency services.
 - e. **Wastewater** - Wastewater would most likely be through private sewage systems.
 - f. **Existing acreages**— There are existing acreages approximately one-half mile to the south. Finigan’s Addition located southeast of the subject parcel was rezoned from AG to AGR in 1996. Bill Peterson Addition located approximately 3,200 feet to the south was rezoned from AG to AGR for two lots in 2006.

6. In the northeast part of the County, specifically east of Highway 77 from Waverly road to Ashland Road, there is less than ½ square mile of land designated for Low Density Residential (AGR) in the 2040 Comprehensive Plan due to water issues and lack of paved roads. All of the area shown for future AGR in the Comprehensive Plan is for the existing acreage lots northeast of Waverly Road and N. 84th Street. This is generally an agricultural area and not suitable for AGR zoning. The entire area should be studied through the comprehensive plan update and not in an unplanned matter.

The applicant’s property is not unique. There are hundreds of similar properties throughout the county. It is not on a paved road, the predominant land use in the area is agriculture and the only acreage lots are approximately one-half mile to the south. The Planning Department receives many similar requests monthly. Although this one lot would not have a significant impact on emergency services or roads, it would allow for many more similar lots to be granted a change of zone to AGR. The overall effect on the county would impact roads, bridges, water quantity and emergency services. Recently there were 2 special permits denied in the north part of the county due in part to concerns of water quantity. While this one lot would not add much demand for water, but as multiple property owners want a spot of AGR zoning it will impact water quantity.

7. The acreage lots located approximately 2,000 feet to the south of the applicant’s property were created prior to 1979 when the minimum lot size in the AG district changed to 20 acres.

8. An acreage development southwest of the applicant’s property called Finigan 3rd Addition was approved in 2004 through a Community Unit Plan (CUP). A CUP allows clustering of small lots based on an overall density of one lot per 20 acres and the zoning remains agricultural. In addition, 70 percent of the overall area must remain in open space. Finigan’s Subdivision a 14 lot subdivision along Pearle Road and Finigan Road was approved in 1977 prior to the 20 acre zoning requirement. All of the acreage lots between Waverly Road and the applicant’s property were either created prior to the 20 acre rule or through a Community Unit Plan with the AG zoning.

9. A Land Inventory Report from March 2020 identifies a potential for an additional 1,416 acreage dwelling units in the rural areas of the county. Rural Areas are defined as those areas outside of other towns zoning jurisdictions. The 1,416 units includes 312 dwelling units that are already approved by either a final plat or preliminary plat. The remaining 1,104 dwelling units, assumes at one dwelling unit per 3 acres, are potential units shown as Low Density residential on the Future Land Use Plan. Based on past building permit data, the 1,416 potential dwelling units is a 24.4 year supply.

10. This proposed change of zone is solely for the benefit of the property owner. It is not to the benefit of surrounding property owners and is not in conformance with the 2040 Lincoln-Lancaster County Comprehensive Plan.

11. Spot zoning is invalid where some or all of the following factors are present:
 1. A small parcel of land is singled out for special and privileged treatment;
 2. The singling out is not in the public interest but only for the benefit of the landowner;

3. The action is not in accord with a comprehensive plan.

All three elements are usually present for spot zoning. For this application all three elements are present.

12. Approval of this application could set a precedent and make it very difficult to deny similar applications. There are hundreds of similar lots throughout the county. This could lead to many more acreage lots throughout the county adding additional burden on emergency services, road maintenance and groundwater availability.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: AG- Agricultural Single family dwelling

SURROUNDING LAND USE & ZONING

North:	AG- Agricultural	Farm ground and 2 single family dwellings.
South:	AG- Agricultural	Farm ground and 2 single family dwellings.
East:	AG- Agricultural	Farm ground and 3 single family dwellings.
West:	AG- Agricultural	Farm ground and 1 single family dwellings.

APPROXIMATE LAND AREA: 7.59 acres, more or less

LEGAL DESCRIPTION: Lot 3 Irregular Tract, located in the NW ¼ of Section 11, Township 11 North, Range 7 East, Lancaster County, NE

Prepared by

Tom Cajka, Planner

Date: May 18, 2020

Applicant: Raymond and Janet Stander
13350 N. 84th St.
Lincoln, NE 68517
402-465-4449

Contact: same as applicant

Owner: same as applicant

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City of Lincoln/Lancaster County, NE

2018 aerial

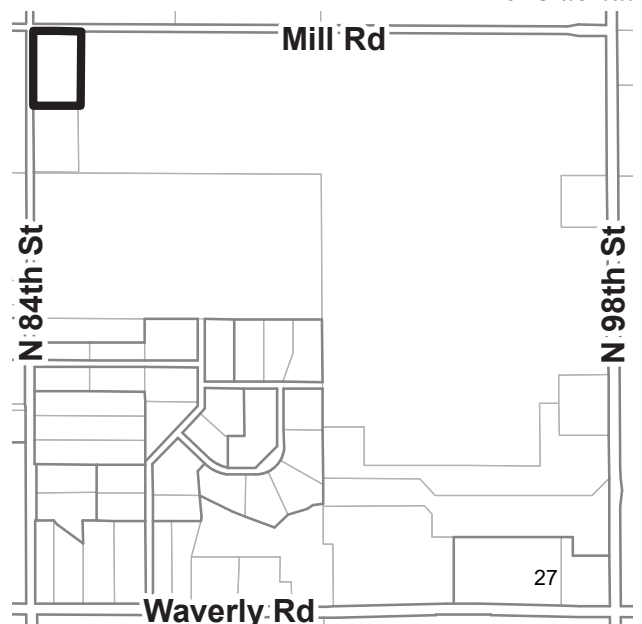
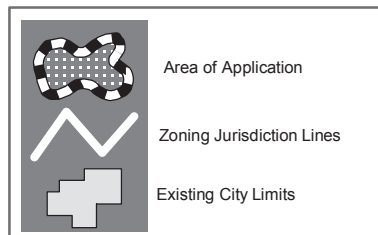
Change of Zone #: CZ20014 (AG to AGR) N 84th St & Mill Rd



Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile:
Sec. 11 T11N R07E



CZ20014 Exhibit



RAYMOND RD

City of Lincoln
3-Mile Zoning
Jurisdiction

AG

N 98TH ST

N 84TH ST



Proposed Change of Zone
AG to AGR

N 70TH ST

MILL PD

AGR AGR

AG

AGR

AGR

WAVERLY RD

FINIGAN RD

N 79TH ST

Raymond L & Janet M Stander
13350 N 84th St
Lincoln, NE 68517

April 27, 2020

Lancaster County Planning Department
555 So 10th St, Ste 213
Lincoln, NE 68508

Re: Subdivision Request for 13350 N 84th St, Lincoln, NE
S11, T11, R7, 6th Principal Meridian, LOT 3 NW NW
No waivers are requested

We are writing to request the approval to subdivide our 7.59 acres so that our son can build a home next to us. Unfortunately, we have reached a time in our lives when we often need to rely on the help of our son, and we know that our health will continue to decline. Our son has agreed to be our Power of Attorney for our health and would be willing to move next to us to help us stay in our home for as long as possible. He has a family and pets so a trailer house or a tiny house on our property would not be feasible for him (also, we cannot afford that.)

When my parents reached the time when they needed help to stay in their home and take care of their farmstead/acreage we were blessed to live in the same town and we could help them with mowing, building repairs, snow removal, gardening, doctor and hospital visits, medication, groceries...all the needs of the elderly trying to stay in their own home. We were especially blessed when they were granted permission to subdivide their property so we could build a home next to them. I no longer had to haul mowers and other tools every day. Most importantly, I was able to ensure they were eating well, monitor medications, and respond timely when there was a medical emergency.

We would like to be able to remain in our home and be productive for as long as possible. For many years we have had large gardens to give produce to Salvation Army and other food pantries, as well as others who are not able to take care of a garden. We hope to continue to do these types of things for many years to come.

The coronavirus pandemic has reinforced the benefits of the elderly (us) being able to self-isolate outside of the cities. It would be so helpful to have younger family members nearby to help us. For so many reasons we would like to delay or eliminate the need to go to a nursing home. Although these facilities serve a need in communities, the thought of being in one is very scary to most of us.

Please consider granting us the ability to have our son nearby to help us. You can't imagine what a wonderful blessing this would be for us.

Thank you for your consideration of our request. And thank you for all you do for our communities. God bless you!

Sincerely,



Raymond L Stander & Janet M Stander